IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE ELEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 2936 of 2001

Between:

P.Bojanna S/o Mogalajee
R/o Paspoor Village, Lokeshwaram Mandal,
Adilabad District.

..... PETITIONER

AND

1 The Industrial Tribuanl-cum-Labour Court, Rep by its Chairman cum-Presiding Officer,
Godavarikhani.
2 The Depot Manager, Andhra Pradesh State Transport Corporation,
Adilabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records from the 1st respondent to issue an appropriate Writ, Order or Direction, particularly one in the nature of Writ of Certiorari and quash the Award in I.D.No.38/97 dt: 3.10.2000 passed by the 1st respondent which was published on 30.12.2000 as illegal, arbitrary, unjust and contrary to law and perverse and grant the relief of reinstatement with all attendant benefits and pass.

Counsel for the Petitioner: MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondent No. 1: GP FOR LABOUR

Counsel for the Respondent No.2: M/s P. Rajini Reddy

The Court made the following :

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ORDER:

Heard both sides and at their request the main Writ Petition itself is taken up for disposal.

Petitioner herein, who has been working as Conductor with the second respondent, files this Writ Petition, inter alia, seeking to assail the impugned award passed in I.D.No. 38 of 1997 dated 3.10.2000, on the file of the first respondent, in response to the dispute raised by the petitioner himself under Section 2-A (2) of the Industrial Disputes Act, 1947.

The facts leading to the present reference are that while petitioner conducting his bus, on 13.7.1985 a check was conducted and certain irregularities were found and ultimately, after enquiry, he was removed from service on 21.4.1986. After exhausting all other remedies, he raised the aforesaid dispute. During the enquiry before the first respondent, it is seen after reading of the order impugned that there was no proper enquiry and no evidence was also let in on either side. That apart, as laid down by the Supreme Court in THE COOPER ENGINEERING LIMITED VS. A.P. MUNDHE, there is absolutely no consideration nor any finding in regard to the

preliminary aspect as to the validity of the enquiry and warrant to apply Section 11-A of the Industrial Disputes Act, on the facts of the case, without which, the entire award gets vitiated. As already held, unless such findings are given, this very enquiry goes astray and mere decision on the basis of the documents filed by both sides and even one side, would not suffice the requirement under law nor comply with the principles laid down in the aforesaid decision of the Apex Court. In the circumstances, the impugned award is set aside.

Accordingly, the Writ Petition is allowed and the mater is remitted back to the first respondent for fresh disposal on merits in accordance with law, after giving notice and opportunity to both sides. The first respondent shall dispose of the matter, within a period of three months from the date of receipt of a copy of this order. No costs.

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B. PRAKASH RAO,J

DATED: 11.02.2005

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That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday the Eleventh Day of February Two Thousand Five.

ASSISTANT REGISTRAR

To

1 The Chairrman-cum-Presiding Officer, the Industrial Tribuanl-cum-Labour Court, Godavarikhani.
2 The Depot Manager, Andhra Pradesh State Transport Corporation, Adilabad.

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